

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

Francisco Merino,

Plaintiff,

v.

Vivian Vuong, et al.,

Defendants.

No. 2:21-cv-00826-KJM-DMC

ORDER

Plaintiff Francisco Merino, who is incarcerated, filed this civil rights action in 2021. ECF No. 1. The case was referred to a Magistrate Judge under the Local Rules of this District. The Magistrate Judge granted Merino's motion to proceed in forma pauperis and screened his complaint, as required by the relevant statute. ECF Nos. 6, 15. The Magistrate Judge dismissed the original complaint for failure to state a claim, but with leave to amend, and ultimately permitted Merino to amend his complaint three times. ECF Nos. 18, 19, 20, 22, 29, 30. The Magistrate Judge then recommended dismissing the action for failure to state a claim, and this court adopted that recommendation in 2022. *See Findings & Recommendations*, ECF No. 32, *adopted*, ECF No. 56. The Ninth Circuit affirmed the dismissal in 2024. ECF Nos. 69, 72.

On September 29, 2025, Merino filed a letter arguing defendants were improperly excused from their obligation to answer his allegations and to comply with the law. ECF No. 76. The court construes his letter as a request for relief from the judgment under Federal Rule of Civil

1 Procedure 60(b) and **denies** the request. *See Delay v. Gordon*, 475 F.3d 1039, 1044–45 (9th Cir.  
2 2007) (discussing circumstances when relief is available under Rule 60(b)); *Am. Ironworks &*  
3 *Erectors, Inc. v. N. Am. Const. Corp.*, 248 F.3d 892, 899 (9th Cir. 2001) (explaining when post-  
4 judgment motions are treated as Rule 60(b) motions).

5 IT IS SO ORDERED.

6 DATED: October 15, 2025.

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UNITED STATES DISTRICT JUDGE